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9 FREDERICK LEAVITT

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

11 UNITED STATES OF AMERICA,)	2:17-CR-00391-APG-VCF
)	
12 Plaintiff,)	
)	
13 v.)	STIPULATION AND ORDER TO
)	CONTINUE SENTENCING
14)	
15 FREDERICK LEAVITT,)	
)	
16 Defendant.)	(Fifth Request)
17)	

18 IT IS HEREBY STIPULATED by and between FREDERICK LEAVITT,
19 Defendant, by and through his counsel THOMAS F. PITARO, ESQ. and PAUL PADDA,
20 ESQ., CHRISTOPER CHIOU, Acting United States Attorney, and STEVEN W. MYHRE,
21 Assistant United States Attorney, that the sentencing hearing in the above-captioned matter
22 currently scheduled for August 17, 2021 at the hour of 11:00 a.m., be vacated and continued
23 to a date and time to be set by this Court but not earlier than after December 2021. This is
24 the fifth request for continuance of Mr. Leavitt's sentencing date and is entered for the
25 following reasons:
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1 1. On March 30, 2020, the Chief Judge for the District of Nevada entered
2 General Order 2020-05, regarding Authorization for Video and Teleconferencing Under the
3 CARES Act and The Exigent Circumstances Created by COVID-19 and Related
4 Coronavirus (hereinafter “General Order”). The General Order addresses the material effect
5 upon the functioning of the Court brought on by the COVID-19 and Coronavirus pandemic
6 and finds, among other things, that for the duration of the General Order, in-person Rule 32
7 felony sentencing hearings cannot be conducted in the District of Nevada without seriously
8 jeopardizing public health and safety. The General Order further provides that Rule 32
9 sentencing hearings may, with the consent of the defendant (upon advice of counsel),
10 proceed by video or teleconference in individual cases, provided that the presiding Court
11 specifically finds that to delay the matter further will cause serious harm to the interests of
12 justice. *See also* CARES ACT, H.R. 748, Public Law No. 116-136. On June 25, 2021, the
13 Chief Judge extended the General Order to remain in effect until September 27, 2021, unless
14 terminated earlier.

15 2. Defendant Leavitt continues to desire an in-person Rule 32 sentencing
16 hearing and the parties agree that further delay to accommodate an in-person hearing will
17 not cause serious harm to the interests of justice. Accordingly, a continuance of the Rule 32
18 sentencing hearing to December 2021, which is outside the current duration of the General
19 Order, is appropriate and will advance the health and safety interests articulated in the
20 General Order.

21 3. A continuance is requested for the additional reason that defendant Leavitt is
22 scheduled to undergo medical treatment at the Mayo Clinic during the month of August due
23 to existing medical conditions. A continuance will accommodate defendant Leavitt’s
24 medical procedure.

25 4. The Government agrees to the continuance.

26 5. Defendant Leavitt is out on Pretrial Release and does not object to the
27 continuance.

28 6. The additional time requested herein is not sought for purposes of delay.

1 7. Additionally, the denial of this request for continuance would result in a
2 miscarriage of justice.

3 **WHEREFORE**, for all the foregoing reasons, the parties respectfully request that the
4 Court accept the Stipulation of the parties and enter an Order vacating the current hearing
5 set for August 17, 2021, and continuing the hearing to a date and time convenient to the
6 Court but no earlier than December 2021.

7 DATED this 9th day of August, 2021.

10 PITARO & FUMO, CHTD.	CHRISTOPHER CHIOU ACTING UNITED STATES ATTORNEY
11 <u>/s/ Thomas Pitaro</u>	<u>/s/ Steven Myhre</u>
12 THOMAS F. PITARO, ESQ.	STEVEN W. MYHRE
13 PAUL PADDA, ESQ.	ASSISTANT UNITED STATES ATTORNEY
14 601 LAS VEGAS BOULEVARD SOUTH	
15 LAS VEGAS, NEVADA 89101	
16 ATTORNEYS FOR DEFENDANT	
17 FREDERICK LEAVITT	

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 2:17-cr-000391-APG-VCF
)
v.) **ORDER**
)
FREDERICK LEAVITT,)
)
)
Defendant.)
_____)

This matter coming on the parties' Stipulation and Order to Continue Sentencing, the Court having considered the premises therein, and good cause showing, the Court accepts the Stipulation of the parties and finds as follows:

1. Sentencing in this matter is presently set for August 17, 2021.
2. For the reasons set forth in the Stipulation, the defendant has requested a continuance of the sentencing hearing until on or after December 2021.
3. Defendant Leavitt is not in custody.
4. The government agrees to the continuance request set forth in the Stipulation.
5. Based on the agreement of the parties and for all the reasons stated in the Stipulation, the Court finds that a continuance of the sentencing hearing is appropriate.

Accordingly:

1. The Rule 32 sentencing hearing set for **August 17, 2021**, is hereby
VACATED and **CONTINUED**; and

1 2. The Rule 32 sentencing hearing in this matter will commence on
2 **December 9, 2021 at 9:30 a.m.** in LV Courtroom 6C before the
3 Honorable Andrew P. Gordon.
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5 **IT IS SO ORDERED** this 17th day of August 2021:
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9 ANDREW P. GORDON
10 UNITED STATES DISTRICT JUDGE
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